

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

LEIA MONTGOMERY and )  
KRISTEN MEGHAN KELLY, )  
                          )  
Plaintiffs,             )  
                          )  
v.                        )  
                          )  
DELTA AIR LINES, INC., )  
                          )  
Defendant.             ) Civil Action No. 3:21-CV-2715-C

**ORDER**

On this date, the Court considered Defendant's Motion to Dismiss, Plaintiffs' Response, and Defendant's Reply. In this lawsuit, Plaintiffs challenge the Defendant's decision to preclude Plaintiffs from flying onboard Delta aircrafts because of their refusal to wear a mask during the Covid pandemic and mask mandates. They also allege that they suffered tort damages when forced to explain personal details related to why they refused to wear a mask.

After considering the arguments and relevant law, the Court is of the opinion that the Motion should be **GRANTED** for the reasons argued by Defendant in its Motion and Reply. More specifically, the Court finds that the Airline Deregulation Act (ADA) preempts Plaintiffs' claims, including their invasion of privacy and other tort claims. Plaintiffs have failed to identify any self imposed undertaking by Defendant in its contract for carriage that would allow a *Wolens* exception to the preemption to apply in this instance.<sup>1</sup> Plaintiffs' claims stem from the federal

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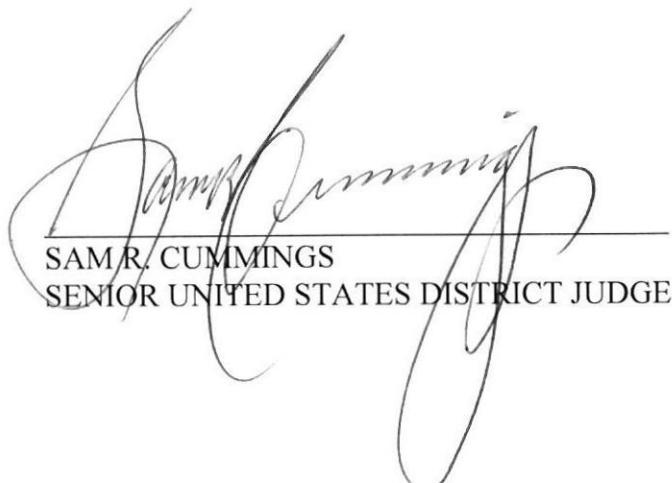
<sup>1</sup>A plaintiff may identify a specific contractual obligation that creates a self-imposed undertaking for an exception to the Airline Deregulation Act to apply. See *American Airlines v. Wolens*, 513 U.S. 219, 228-232 (1995).

mask mandate and are directly related to air carrier service of transporting passengers. Likewise, the claims for negligent and intentional infliction of emotional distress are preempted under the Federal Aviation Act (FAA), ADA, and Air Carrier Access Act (ACAA). Furthermore, as aptly argued by Defendant, Plaintiffs' pleadings fail to state a claim for either intentional infliction or negligent infliction of emotion distress. Finally, there is no private right of action under the Air Carrier Access Act to support Plaintiffs' requests for declaratory and injunctive relief.

As such, Plaintiffs' claims are **DISMISSED** with prejudice for the reasons argued by Defendant.

SO ORDERED.

Dated June 13, 2022.



SAM R. CUMMINGS  
SENIOR UNITED STATES DISTRICT JUDGE